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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.798 OF 2006
IN
SUIT NO.283 OF 1981

Life Insurance Corporation of India).. Plaintiffs

Versus

Bhagwant Singh, Assistant Collector, Estate Duty and others).. Defendants

Ms.Sneha Chodnekar i/b.Little & Co. for the Plaintiffs.

Mr.Swapnil Bangur i/b.Kalpesh J. Nansi for Defendant Nos.3 to 8.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 24TH MARCH 2006

P.C.:

. By the order dated 20th January 2006, this Court had directed that the Suit be proceeded against Defendant Nos.1, 3 to 8 in default of the Written Statement. The present Motion has been taken out for setting aside of this order and for a permission to file the Written Statement on behalf of Defendant Nos.3 to 8.

2. An affidavit has been filed by Defendant No.4 in support of the Motion where he contends that Defendant Nos.2 to 8 were living in a joint family in the year 1981 when the Suit was filed and served on them. Defendant No.2 who has expired and against whom the Suit

has abated by the order of 20th January 2006, was attending the matter and therefore his sibblings, Defendant Nos.3 to 8 did not bother to attend the matter. It is, therefore, prayed in these circumstances that the Written Statement on behalf of Defendant Nos.3 to 8 be accepted and the order dated 20th January 2006 be modified accordingly.

3. This application is opposed vehemently on behalf of the Plaintiffs. It is contended that the Defendants ought to have been vigilant in filing the Written Statement immediately after they were served with the writ of summons. The learned Counsel appearing for the Plaintiffs submits that the delay of 25 years should not be condoned lightly.

4. After having heard the learned Counsel for the parties, I am of the view that there has been an inordinate delay in filing the Written Statement by Defendant Nos.3 to 8. However, with a view that justice should be done to them, the order dated 20th January 2006 is modified to the extent that the Written Statement on behalf of Defendant Nos.3 to 8 be taken on record, subject to them paying costs of Rs.10,000/- (Rupees Ten thousand only) to the Plaintiff.

5. Notice of Motion disposed of accordingly.